

**FILED**

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Board of Vocational Nursing  
and Psychiatric Technicians

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8 **BEFORE THE**  
**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. VN-2008-879

12 **BRANDY LYNN GRANZIERO**  
13 **11051 Quincy Street**  
**Moreno Valley, CA 92555**

**A C C U S A T I O N**

14 **Vocational Nurse No. VN 184855**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in  
20 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric  
21 Technicians, Department of Consumer Affairs.

22 2. On or about June 10, 1998, the Board of Vocational Nursing and Psychiatric  
23 Technicians issued Vocational Nurse Number VN 184855 to Brandy Lynn Granziero  
24 (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to  
25 the charges brought herein and will expire on November 30, 2011, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Business and Professions Code (Code) section 118, subdivision (b), provides:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

5. Section 2875 of the Code provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

6. Section 2892.1 of the Code states, in pertinent part:

Except as provided in Sections 2892.3 and 2892.5, an expired license may be renewed at any time within four years after its expiration upon filing of an application for renewal on a form prescribed by the board, payment of all accrued and unpaid renewal fees, and payment of any fees due pursuant to Section 2895.1.

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## STATUTORY PROVISIONS

7. Section 432 of the Code provides:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

....

(b) Considering suspension of a license under Section 490. Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

9. Section 493 of the Code provides, in pertinent part, that the record of conviction of a crime shall be conclusive evidence of the facts that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

10. Section 2878 of the Code states:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

• • • •

(f) Conviction of a crime substantially related to the qualifications, functions, and duties of a licensed vocational nurse, in which event the record of the conviction shall be conclusive evidence of the conviction.

• • • •

11. Section 2878.8 of the Code states:

The board may deny any application or may suspend or revoke any license issued under this chapter based upon the denial of licensure, suspension, restriction, or other disciplinary action of a license by another state, any other government agency, or by another California health care professional licensing board. A certified copy of the finding shall be conclusive evidence of that action provided that, if from another state, the findings establish an act which is committed in California, would be grounds for discipline.

## REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 2518.6(b)(4), states:

• • • •

(b) A licensed vocational nurse shall adhere to standards of the profession and shall incorporate ethical and behavioral standards of professional practice which include but are not limited to the following:

• • • •

(4) Abstaining from chemical/substance abuse; and

• • • •

1 (c) A violation of this section constitutes unprofessional conduct for purposes  
2 of initiating disciplinary action.

3 13. California Code of Regulations, title 16, section 2521, states, in pertinent part:

4 For the purposes of denial, suspension, or revocation of a license pursuant to  
5 Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
6 crime or act shall be considered to be substantially related to the qualifications,  
7 functions or duties of a licensed vocational nurse if to a substantial degree it  
evidences present or potential unfitness of a licensed vocational nurse to perform the  
functions authorized by his license in a manner consistent with the public health,  
safety, or welfare. Such crimes or acts shall include but not be limited to those  
involving the following:

8 (a) Procuring a license by fraud, misrepresentation, or mistake.

9 (b) A conviction of practicing medicine without a license in violation of  
10 Chapter 5 of Division 2 of the Business and Professions Code.

11 (c) Violating or attempting to violate, directly or indirectly, or assisting in or  
12 abetting the violation of, or conspiring to violate any provision or term of Chapter  
6.5, Division 2 of the Business and Professions Code.

13 (d) Aiding or assisting, or agreeing to aid or assist any person or persons,  
14 whether a licensed physician or not, in the performance of or arranging for a violation  
of any of the provisions of Article 13, Chapter 5, Division 2 of the Business and  
Professions Code.

15 (e) Conviction of a crime involving fiscal dishonesty.

16 (f) Any crime or act involving the sale, gift, administration, or furnishing of  
17 "narcotics or dangerous devices" as defined in Section 4022 of the Business and  
Professions Code.

18 14. California Code of Regulations, title 16, section 2522 states, in pertinent part:

19 When considering . . . b) the suspension or revocation of a license on the  
20 ground that a licensee has been convicted of a crime, . . . the Board in evaluating the  
21 rehabilitation of an individual and his or her present eligibility for a license, will  
consider the following criteria:

22 (1) Nature and severity of the act(s), offense(s), or crime(s) under  
consideration.

23 (2) Actual or potential harm to the public.

24 (3) Actual or potential harm to any patient.

25 (4) Overall disciplinary record.

26 (5) Overall criminal actions taken by any federal, state or local agency or  
27 court.

28 (6) Prior warnings on record or prior remediation.

- 1 (7) Number and variety of current violations.
- 2 (8) Mitigation evidence.
- 3 (9) In case of a criminal conviction, compliance with terms of sentence and/or  
4 court-ordered probation.
- 5 (10) Time passed since the act(s) or offense(s) occurred.
- 6 (11) If applicable, evidence of proceedings to dismiss a conviction pursuant to  
7 Penal Code section 1203.4.
- 8 (12) Cooperation with the Board and other law enforcement or regulatory  
9 agencies.
- 10 (13) Other rehabilitation evidence.

#### 11 COST RECOVERY

12 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
13 administrative law judge to direct a licensee found to have committed a violation or violations of  
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
15 enforcement of the case.

#### 16 DRUGS

17 16. Vicodin, a brand name for acetaminophen and hydrocodone bitartrate, is a  
18 Schedule III controlled substance as designated by Health and Safety Code Section 11056, and is  
19 a dangerous drug pursuant to Business and Professions Code section 4022.

#### 20 FIRST CAUSE FOR DISCIPLINE

##### 21 (December 12, 2003 Criminal Convictions for Harassment and for 22 Attempted Assault on Peace Officer on September 6, 2003)

23 17. Respondent is subject to disciplinary action under Code sections 490 and 2878,  
24 subdivision (f), in that Respondent was convicted of a crime that is substantially related to the  
25 qualifications, functions, and duties of a vocational nurse. The circumstances are as follows:

26 18. On or about December 12, 2003, in the Circuit Court of the State of Oregon for the  
27 County of Curry, in the case entitled *State of Oregon vs. Brandy Lynn Granziero*, Case  
28 No. 03CR0865, Respondent was convicted on her plea of guilty of violating Oregon Revised  
Statutes (ORS) 166.065 (harassment) and 161.405/163.208 (attempted assault on peace officer),  
misdemeanors.

1       19. The facts that led to Respondent's conviction are that on September 6, 2003,  
2 Respondent unlawfully and intentionally harassed and annoyed R.S. by subjecting her to  
3 offensive physical contact, and unlawfully and intentionally caused physical injury to Officer  
4 C.L., knowing C.L. to be a peace officer acting in the course of his official duties.

5       20. As a result of the above conviction, Respondent was placed on probation for two  
6 years and ordered to comply with conditions of probation as set out in ORS 137.540(1), pay  
7 various fines, comply with and pay for the costs of any program of supervision, rehabilitation,  
8 evaluation, treatment or counseling deemed appropriate by the Corrections Division, Mental  
9 Health, Evaluator or the Court.

10                               **SECOND CAUSE FOR DISCIPLINE**

11       **(November 1, 2004 Criminal Conviction for Reckless Driving on May 11, 2004)**

12       21. Respondent is subject to disciplinary action under Code sections 490 and 2878,  
13 subdivision (f), in that Respondent was convicted of a crime that is substantially related to the  
14 qualifications, functions, and duties of a vocational nurse. The circumstances are as follows:

15       22. On or about November 1, 2004, in the Circuit Court of the State of Oregon for the  
16 County of Multnomah, in the case entitled *State of Oregon vs. Brandy Lynn Granziero*, Case  
17 No. C040646927, Respondent was convicted on her plea of guilty of violating ORS 811.140(1)  
18 (reckless driving), a misdemeanor. Pursuant to a plea agreement, counts 2-4 (ORS 806.055(2) –  
19 giving false information about liability insurance to police, ORS 163.195(3) – recklessly  
20 endangering another person, and ORS 164.354(4) – criminal mischief in the second degree) were  
21 dismissed.

22       23. The facts that led to Respondent's conviction are that on May 11, 2004, Respondent  
23 recklessly drove a vehicle upon a public highway in a manner that endangered the safety of  
24 persons or property.

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**THIRD CAUSE FOR DISCIPLINE**

**(Disciplinary Action By the Oregon State Board of Nursing)**

24. Respondent is subject to disciplinary action under Code section 2878.8, in that Respondent was disciplined by the Oregon State Board of Nursing ("Oregon Board") for chemical dependency. The circumstances are as follows:

25. Respondent's Oregon Board Practical Nurse License No. 0990005058LPN expired on October 17, 2004 and Respondent failed to renew said license. Prior to the expiration of the license, Respondent was under investigation by the Oregon Board regarding suspected drug and alcohol abuse.

26. On or about September 27, 2006, Respondent enrolled in the Board's Nurse Monitoring Program (NMP). While on the NMP, Respondent was diagnosed as opiate and alcohol dependent.

27. Respondent failed to comply with the Oregon Board's NMP program in several respects, including but not limited to, failure to keep scheduled interviews with the NMP coordinator. When the Oregon Board informed Respondent that the Oregon Board intended to impose disciplinary action, up to and including revocation of her licensure as a practical nurse in Oregon, Respondent chose to voluntarily surrender the license.

28. On or about September 20, 2007, a Final Order was filed by the Oregon State Board of Nursing accepting the Voluntary Surrender of Brandy Lynn Granziero's Practical Nursing License No. 09900 5058LPN.

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1 FOURTH CAUSE FOR DISCIPLINE

2 (Used Controlled Substances in Manner Dangerous or Injurious to  
3 Self and/or Others)

4 29. Respondent is subject to disciplinary action under Code section 2878.8(a) on the  
5 grounds of unprofessional conduct, as defined by Code section 2878.5(b) in that between or about  
6 2006 and 2007, Respondent used Vicodin and/or other opiates to an extent or in a manner  
7 dangerous to herself and/or the public, as is more fully detailed at paragraphs 23 through 27,  
8 above, which are incorporated here by reference.

9 PRAYER

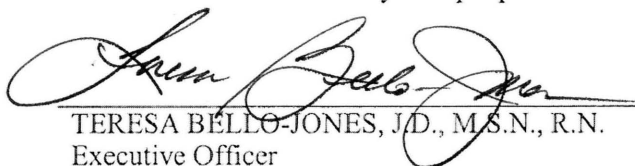
10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
11 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians  
12 issue a decision:

13 1. Revoking or suspending Vocational Nurse Number VN 184855, issued to Brandy  
14 Lynn Granziero;

15 2. Ordering Brandy Lynn Granziero to pay the Board of Vocational Nursing and  
16 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,  
17 pursuant to Business and Professions Code section 125.3;

18 3. Taking such other and further action as deemed necessary and proper.

19 DATED: September 6, 2011

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21 TERESA BELLO-JONES, J.D., M.S.N., R.N.  
22 Executive Officer  
23 Board of Vocational Nursing and Psychiatric Technicians  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant

27 SD2011800362